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EXAMINER

KATCHEVES, BASIL S

ART UNIT PAPER NUMBER

3635

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,745

Applicant(s)

WHITWORTH, BRECK

Examiner

Basil Katcheves

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claims 2 and 3 are objected to. Claims 2 and 3, have limitations comprised of a handle and handle bore located at the second end of the bar. This is inconsistent with copending claim 15 and with the specification, which places the handle and handle bore at the second end of the threaded rod, not the second end of the bar. Claims 2 and 3 have been examined as having the handle and handle bore at the second end of the threaded rod. Applicant should address this concern in applicants response to this office action and correct these claims if they are inconsistent.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,794,217 to Croft.

Regarding claim 1, Croft discloses a brace for supporting a window between frame walls (fig. 1). The brace having a bar (fig. 2: 17) a plate fixed to a first end of the bar and having a threaded hole (fig. 4: 24; column 2, lines 43-44), a threaded rod (fig. 4: 26) passing through the threaded hole at a first end and at a second end contains a foot

plate (fig. 4: 28) for pressing against a frame (fig. 4: 14). Croft also discloses rotating the threaded rod (fig. 4: 26) to force the foot (fig. 4: 28) to secure the panel (fig. 2: 12).

Regarding claim 2, Croft discloses a handle (column 2, lines 51-53) at the second end of the threaded rod for turning the threaded rod.

Regarding claim 3, Croft discloses a cross bore (fig. 4: 30) at the second end of the threaded rod for receiving a turning handle (column 2, lines 51-53).

Regarding claim 5, Croft discloses the plate (fig. 4: flat top of component 24) as being spaced from the end of the bar (fig. 4: 18).

Regarding claim 6, Croft discloses another bar (fig. 2: 19) connected to the first bar (fig. 2: 18) joined by a connector (fig. 2: 20).

Regarding claim 8, Croft discloses an extension (fig. 5: 20) at the second end of the bar (fig. 5: 18).

Regarding claim 10, Croft discloses a gripping pad (fig. 2: 37) located at the second end of the bar (fig. 2: 18).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,794,217 to Croft in view of U.S. Patent No. 3,027,140 to Holzbach.

Regarding claim 4, Croft discloses the brace as having a bore in the first end portion (fig. 4: 18) of the bar and the threaded rod (fig. 4: 26) received in the bore. However, Croft does not disclose the bar as being formed of wood. Holzbach discloses a brace having a wooden bar (fig. 1: 41), and a threaded rod (fig. 2: 5) as being received within a bore (fig. 2: 43) located at a first end of the bar. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Croft by making the bar from wood, as disclosed by Holzbach, in order to reduce weight and costs of the brace while protecting the brace from corrosion.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,794,217 to Croft.

Regarding claim 7, Croft discloses holes (fig. 5: 21) formed in the connector (fig. 5: 20), locking pins (column 2, lines 38-39) and discloses any suitable manner for connecting the bars to the connector (column 2: lines 37-39). However, Croft does not specifically disclose holes formed in the bars to coincide with the holes formed in the connector. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Croft by adding holes in the bars in order for the pins (fig. 5: 21) to pass through the connector and, additionally, into the bars in order to create a stronger connection between bars and connector.

Regarding claim 9, Croft discloses holes (fig. 5: 21) formed in the extension (fig. 5: 20), locking pins (column 2, lines 38-39) and discloses any suitable manner for connecting the bar to the extension (column 2: lines 37-39). However, Croft does not specifically disclose holes formed in the bar to coincide with the holes formed in the extension. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Croft by adding holes in the bar in order for the pins (fig. 5: 21) to pass through the extension and, additionally, into the bar in order to create a stronger connection between bar and the extension.

Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,794,217 to Croft in view of U.S. Patent No. Re. 32,509 to Werner.

Regarding claim 11, Croft does not disclose a connecting strip for connecting protective panels. Werner discloses a connecting strip (fig. 6: 30) for joining protective panels (fig. 6: 28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Croft by adding the connecting strip and protective panels, as disclosed by Werner, in order to better protect the framed window from flying debris and to be able to use a number of different sized panels to fit within the window opening.

Regarding claim 12, Werner discloses the connecting strip (fig. 6: 30) as having spaced walls (fig. 6: above and below from where component 30a is shown) interconnected by a cross piece (fig. 6: see unlabeled central portions adjacent 30b connecting walls).

Regarding claim 13, Croft discloses a method of using a brace for supporting a window between frame walls (fig. 1). The brace having a bar (fig. 2: 17), a plate fixed to a first end of the bar and having a threaded nut hole (fig. 4: 24; column 2, lines 43-44), a threaded rod (fig. 4: 26) passing through the threaded nut hole at a first end and at a second end contains a foot plate (fig. 4: 28) for pressing against a frame (fig. 4: 14). Croft also discloses rotating the threaded rod (fig. 4: 26) to force the foot (fig. 4: 28) to secure a window panel (fig. 2: 12). However, Croft does not disclose at least one protective panel over the fixed window panel. Werner discloses at least one protective panel (fig. 1: 22 & fig. 6: 26 & 28) for protecting windows. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Croft by adding at least one protective panel to the brace system, as disclosed by Werner, in order to protect the window panels from flying debris.

Regarding claim 14, Croft discloses the rod (fig. 4: 26) as threadably attached to the bar by a threaded fixing plate (fig. 5: 24) having an end nut (fig. 5: flat top of 24).

Regarding claim 15, Croft discloses rotating the rod (fig. 5: 26) through a handle member (column 2, lines 51-53) attached to the rod.

Regarding claim 16, Croft discloses interconnecting a pair of bars through a connector (fig. 5: 20) and locking pins (fig. 5: 21).

Regarding claim 17, Croft discloses an extension (fig. 2: 20) attached at the second end portion of the bar (fig. 2: 18).

Regarding claim 18, Croft discloses interconnecting the bar (fig. 2: 18) and the extension (fig. 2: 20) through locking pins (fig. 5: 21).

Regarding claim 19, Werner discloses interconnecting multiple protective panels (fig. 6: 26 & 28) through a connecting strip (fig. 6: 30).

Regarding claim 20, Werner discloses the panels as being inserted into channels (fig. 6: between 30a) on both sides of the connecting strip (fig. 6: 30).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to window braces in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (703) 306-0232. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (703) 308-0832.

BK

5/25/04


Basil Katcheves

Examiner AU 3635